

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

DEBORAH MATULA, §
§
Plaintiff, §
§
VS. § CIVIL ACTION NO. 1:21-cv-632
§
PROSPERITY BANK, §
§
Defendant. §

DEFENDANT PROSPERITY BANK'S NOTICE OF REMOVAL

COMES NOW, Defendant Prosperity Bank (“Prosperity Bank”), hereby exercising its rights under 28 U.S.C. §§ 1331, 1441, and 1446 to remove this action from the 425th Judicial District Court of Williamson County, Texas, in which this action is now pending as Cause No. 21-0883-C425, to this Court. In support, Defendant shows as follows:

1. This is an action of a civil nature over which the District Courts of the United States of America have original jurisdiction pursuant to 28 U.S.C. § 1331 because it arises under the Constitution, laws, or treaties of the United States.
2. Under 28 U.S.C. §§ 1441 and 1446, Defendant has the right to remove this action from the District Court of Williamson County, Texas to the United States District Court for the Western District of Texas, Austin Division, which is the federal district and division in which the action is pending.
3. This action was commenced by Deborah Matula by filing suit against Prosperity Bank. Plaintiff alleges that she was wrongfully terminated because of her gender and in retaliation for complaining about gender discrimination in violation of state and federal law. Plaintiff’s state-court petition asserts three claims: (i) a claim for violation of the Texas Labor

Code and Title VII of the Civil Rights Act of 1964, as amended (“Title VII”), for alleged gender discrimination; (ii) a claim for violation of the Texas Labor Code and Title VII for alleged unlawful retaliation; and (iii) a discrimination and retaliation claim for an alleged violation of the federal Family and Medical Leave Act (“FMLA”).¹

4. Removal is proper pursuant to 28 U.S.C. §§ 1441 and 1331 because the state-court Original Petition expressly pleads claims for relief under or based on federal law, namely Title VII and the FMLA, and therefore presents a federal question.

5. To the extent any of Plaintiff’s claims are based on Texas state law, this court has supplemental jurisdiction over any such potential state law claims, as the claims share a common, albeit identical, nucleus of operative facts with the federal claims.

6. Defendant denies any and all alleged wrongdoing and any and all liability to Plaintiff. Further, Defendant does not waive any available defenses or admit any of Plaintiff’s allegations made in the state court action by removing this suit to federal court.

7. Defendant was served with process on June 24, 2021.² This Notice of Removal is being timely filed within thirty (30) days of service of the Original Petition on Defendant pursuant to 28 U.S.C. § 1446(b).

8. Service of this Notice of Removal is being made on all parties as shown by the attached Certificate of Service as required by 28 U.S.C. § 1446(d).

9. Defendant Prosperity Bank is the sole defendant in this case and consents to the removal of this matter by the signature of its undersigned counsel below, pursuant to 28 U.S.C. § 1446(a) and Federal Rule of Civil Procedure 11.

¹ See Exhibit A-2, Plaintiff’s Original Petition, ¶¶ 5.2-5.9.

² See Exhibit A-1f, Register of Actions.

10. Defendant is attaching in the Exhibit A hereto, a copy of the docket sheet for the state court action. In accordance with the requirements of 28 U.S.C. § 1446(a), Defendant is also attaching in the Exhibit A hereto a complete copy of all documents previously filed in the state court action to date.

11. Promptly after filing this Notice of Removal, and as required by 28 U.S.C. § 1446(d), Defendant will serve on Plaintiff and file with the District Clerk of the District Court of Williamson County, Texas, a “Notice of Filing of Notice of Removal” along with a copy of this Notice of Removal.

WHEREFORE, Defendant prays that the action now pending in the 425th Judicial District of Williamson County, Texas be removed to this Court for further proceedings as though this action had originally been instituted in this Court.

Respectfully submitted,

MUSKAT, MAHONY & DEVINE, LLP

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COUNSEL FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document was served on all counsel of record on July 16, 2021 via the court's e-filing system and U.S. mail in accordance with the Texas Rules of Civil Procedure.

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/s/ Nicole Su

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